



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

ADMINISTRATOR'S MEMORANDUM

Transfer Processing No. 10

TO: Regional Offices and Water Allocation Section

FROM: Norman C. Young *NCY*

DATE: January 24, 1986

RE: Transfer of Water Rights from Encumbered Lands

Increasing scarcity of water supplies has resulted in an increase in the number of Applications for Transfer proposing to move water rights from one location to another. A previous memorandum described the importance of insuring that a transfer will not allow an expansion of a water right. An additional concern regards encumbrances on land from which a water right is proposed to be removed.

Item C(3)(a) of the Application for Transfer reads as follows:

Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages or contracts? YES NO.

If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed change.

This question must be answered on every Application for Transfer, even when the applicant is the same as the original right holder, before the application is forwarded to the state office. If the answer is no, then no resulting action need be taken by the Department. If the answer is yes, then the regional office personnel must require the applicant to provide the notarized statement from the holder of the lien, deed of trust, mortgage or contract to the regional office before the Application for Transfer is forwarded to the state office. The format of the notarized statement is not standardized, and it can be a notarized letter, memorandum, etc.

Transfer Processing No. 10

Page 2

The requirement for the notarized statement is important in that it is the only practical means of insuring that the encumbrance holder will be notified of the pending removal of water rights. In the case where an incorrect response by the applicant to question C(3)(a) injures an encumbrance holder, the Transfer can be voided if the original filing information is found to be fraudulent or faulty.